

OCT 31 2008



Ravalli County  
Streamside Setback Committee (SSC) Ravalli County Planning Dept.

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**From:** Ravalli County Streamside Setback Committee (SSC)

**To:** ✓ Board of County Commissioners, Ravalli County, MT  
Planning Board, Ravalli County  
Planning Department, Ravalli County

**Date:** October 31, 2008

**Subject:** Transmittal of Proposed Final Draft of the Streamside Protection Regulation (SPR).

We are pleased to enclose the final draft of the proposed Streamside Protection Regulations, developed by the Streamside Setback Committee (SSC) over the past fifteen months in accordance with Ravalli County Resolution 3000.

This transmittal contains the following documents:

1. The proposed **Final Draft** of the Regulation. The draft SPR has undergone several iterations and proposed versions during the development process, throughout which we have solicited, received and incorporated public comment. We recognize this is an ongoing process and members of the public will have additional input in the coming review phases.
2. **Minority Dissenting Opinion(s) and Majority Supporting Statement(s)** on the SPR by member(s) of the SSC.
3. Summary of the **verbal and written public comments** received, analyzed and adopted throughout the formulation of the SPR document.

The following supporting documents will be provided in the near future:

1. A **proposed public education plan** for education and feedback meetings to be conducted by members of the SSC and given to the Public and the other Ravalli County government bodies on the context and content of this draft regulation.
2. A comprehensive summary, lists and files of the **scientific data and reports** reviewed, assessed, and applied by the SSC in support of the context and content of the SPR.
3. A list of **similar regulations** from other jurisdictions reviewed and pragmatically applied by the Regulations Subcommittee to our SPR process.
4. **Other material and documents**, including our interim report, copies of presentations made to the SSC and public, working documents such as our Plan and Big Questions list, a Summary of those SSC members that are available for development of other documents such as a "**Setback Best-Maintenance Practices**" manual and all other files documenting the history of the SSC process and deliberation.

The members of the Committee appreciate the opportunity to have served Ravalli County in this important undertaking. We are available, as necessary, to amend after further review and processing of this SPR and to explain any part of the document or its formulation.

Please note that as it now stands, our last scheduled SSC meeting will be on November 18, 2008.

Respectfully submitted,

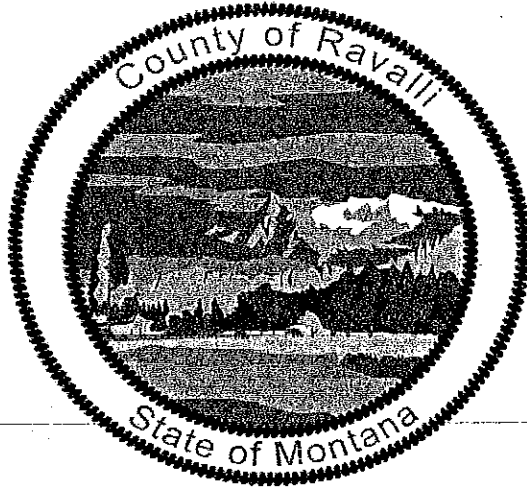


Clay Dethlefsen  
Chairman, Streamside Setback Committee

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Attachments:

1. Final Draft Proposal "Ravalli County Streamside Protection Regulation" Dated 10/31/2008.
2. Minority Opinion (Minority Report by SSC Member Travis Martinez)—received 10/31/08 @ 12:12 A.M.
3. Summary of the Verbal and Written Public Comments
4. Statement of Support by SSC Member Ben Hillicoss--received 10/31/08 @ 11:51 A.M.
5. Statement of Support by SSC Member Howard Eldredge—received 10/30/08 @ 10:07 P.M.
6. Statement of Support by SSC Member Al Pernichele—received 10/30/08 @ 10:04 P.M.
7. Statement of Support by SSC Member Laurie Riley—received 10/30/2008 @ 5:42 P.M.
8. Statement of Support by SSC Member Chris Clancy—received 10/30/2008 @ 5:10 P.M.



# RAVALLI COUNTY STREAMSIDE PROTECTION REGULATION

Final Draft Proposal

Dated: 10/31/2008

## Table of Contents

SECTION 1 – GENERAL .....	3
1.1 TITLE .....	3
1.2 AUTHORITY .....	3
1.3 PURPOSE .....	3
1.4 INTENT AND SCOPE .....	3
1.5 EFFECTIVE DATE .....	3
1.6 JURISDICTION .....	3
1.7 ADMINISTRATION .....	3
1.8 SEVERABILITY .....	4
2. DEFINITIONS .....	4
3. BUFFER AND SETBACK REQUIREMENTS .....	6
3.1. CLASS 1 STREAM: .....	6
3.2. CLASS 2 STREAMS: .....	6
3.3. Table 1: BITTERROOT RIVER TRIBUTARIES .....	7
3.4. WEST FORK BITTERROOT TRIBUTARIES .....	7
3.5. CLASS 3 STREAMS: .....	7
3.6. CLASS 4 STREAMS: .....	7
3.7. Table 2: BUFFER, SETBACK BOUNDARY VERIFICATION WIDTHS: .....	7
3.8. FIGURE 1 .....	8
4. ALLOWED STRUCTURES AND USES WITHIN THE BUFFER AND SETBACK .....	8
5. ALLOWED NEW STRUCTURES AND USES WITHIN THE BUFFER AND SETBACK .....	8
6. PROHIBITED NEW USES AND ACTIVITIES WITHIN THE BUFFER AREA .....	9
7. PROHIBITED STRUCTURES AND USES WITHIN THE SETBACK AREA .....	10
8. OTHER APPLICABLE REGULATIONS .....	10
9. VARIANCES .....	11
10. SPR ZONING BOARD OF ADJUSTMENTS .....	11
11. ENFORCEMENT .....	12
12. VIOLATIONS AND PENALTIES .....	12

## STREAMSIDE PROTECTION REGULATION - FINAL PROPOSAL

Revised 10-29-2008

Printed 10/29/2008 11:53 PM

Final Proposal

### SECTION 1 – GENERAL

#### 1.1 TITLE

This regulation shall be known and cited as the Ravalli County, Streamside Protection Regulation (SPR). The SPR restricts certain construction, and other uses and activities identified herein near streams, rivers their associated wetlands within Ravalli County, Montana.

#### 1.2 AUTHORITY

The SPR is adopted pursuant to Sections 76-2-201 through 76-2-228, MCA (excepting 76-2-206).

#### 1.3 PURPOSE

The purpose of the SPR is to manage the construction of permanent structures and other identified activities on land adjacent to streams, rivers their associated wetlands in Ravalli County.

#### 1.4 INTENT AND SCOPE

- 1.4.1. It is the intent of these regulations to protect public health, safety and welfare, and also to protect property values and streamside riparian areas within Ravalli County. This will be accomplished by protecting water quality, stream stability, fish and wildlife habitat and natural stream processes from the negative impacts caused by the construction of new, permanent structures and other identified activities.
- 1.4.2. All lawful, pre-existing uses located within the, designated stream protection area that exist on the effective date of the SPR are exempt (i.e. grandfathered) from the provisions contained herein.
- 1.4.3. All legal activities normally associated with agriculture, diversion, transport and distribution of irrigation water, and irrigation-related structures are exempt from the provisions of the SPR.
- 1.4.4. No use or activity permitted under the SPR shall be interpreted as allowing trespass on private property.
- 1.4.5. It is the intent of this regulation to avoid making any currently existing buildable lots becoming unbuildable.
- 1.4.6. All lawful recreational uses located within the designated stream protection area that exist on the effective date of the SPR are grandfathered and therefore exempt from the provisions of these regulations.

#### 1.5 EFFECTIVE DATE

The effective date of this regulation shall be \_\_\_\_\_

#### 1.6 JURISDICTION

The SPR shall apply to rivers, streams and associated wetlands within Ravalli County, Montana. The SPR applies to all private, county and State owned lands. The SPR does not apply to Federal lands or incorporated towns or cities

**Comment [bch1]:** This phrase is flagged, by the full SSC for review by the Planning and Legal departments

#### 1.7 ADMINISTRATION

1.7.1 The SPR shall be administered by the Ravalli County Planning Department, hereinafter called "The Department".

## STREAMSIDE PROTECTION REGULATION - FINAL PROPOSAL

Revised 10-29-2008

Printed 10/29/2008 11:53 PM

Final Proposal

1.7.2 Any landowner, landowner agent, or contractor, building a new permanent structure on property adjoining a stream (within the distances outlined in Table 2), must apply to the Department for a Boundary Verification Document at least 30 days prior to the beginning of any construction.

1.7.3 The owner or project manager must give the Department their contact information and general location of the project, along with a description or drawing of the proposed construction and its approximate location relative to the stream.

1.7.4 The Department staff, or their designated representative, will review the proposal generally to ascertain the proximity of the structure(s) to the stream setback. Based on the findings, the reviewer may require the on-site delineation of either the setback boundary or the buffer boundary, or both, by either Department staff or a competent individual acceptable to the Department.

1.7.5 The Department will issue a letter to the landowner certifying that the boundary of the setback and buffer have been officially located, marked and recorded.

1.7.6 The Department will maintain a file on the project and must be allowed to inspect the ongoing construction, as they deem necessary to confirm that new structures do not infringe upon the stream protection zone.

1.7.7 Failure to comply with the requirements set forth within these regulations, including the verification of the setback boundary and location of structures outside that boundary, will result in penalties and enforcement as described in Section 9.

### 1.8 SEVERABILITY

If any section, subsection, paragraph, sentence or clause of the SPR is declared invalid for any reason, such decision shall not affect the remaining portions of the SPR which shall remain in full force and effect. To this end, the provisions of the SPR are hereby declared to be severable.

## 2. DEFINITIONS

2.1. Active Channel: Any channel that exhibits evidence of recent flow and includes a clean or scoured streambed and debris adjacent to the channel deposited by flowing water.

2.2. Agricultural Use: The production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, sod (commercial only), ornamental or nursery or horticultural crops that are raised, grown, or produced for personal or commercial use [Section 15-1-101(a), MCA]. The term also refers to the raising of domestic animals and wildlife in a domesticated or a captive environment.

2.3. Best Management Practices: Those practices recommended by the Natural Resources Conservation Service (NRCS) and other government agencies. The Department will facilitate compliance with these regulations, by developing and making available to assist landowners, a collection of educational information on Best Management Practices for maintaining Streamside Setbacks and riparian areas.

2.4. Buffer, Buffer Zone, or Buffer area: A natural, relatively undisturbed strip or "green belt" bordering a stream or permanent water body, or wetland (See Figure 1). Certain activities are prohibited within the buffer zone (See the section titled New Uses Prohibited within the Buffer). The buffer zone width for each stream class is defined in the section titled, Buffer and Setback Requirements.

2.5. Boundary Verification Document: A document issued by the Department that identifies the setback and buffer boundary, according to this SPR, at the time of construction.

## STREAMSIDE PROTECTION REGULATION - FINAL PROPOSAL

Revised 10-29-2008

Printed 10/29/2008 11:53 PM

Final Proposal

2.6. Creek: A natural conveyance of water smaller than a river (and often a tributary of a river).

2.7. Grandfathered: Its the act of allowing existing legal uses to continue as long as these regulations remain in effect. Grandfathering, as defined herein, shall survive all amendments to this SPR and sale or transfer of property ownership.

Comment [bch2]: This definition is flagged for review by Legal and Planning Departments

2.8. Impervious Surfaces: A surface that prevents or significantly reduces the entry of water into the underlying soil, resulting in runoff from the surface in greater quantities and/or at an increased rate when compared to natural conditions prior to development. Examples of impervious surfaces include parking lots, driveways, roadways, storage areas, and rooftops. The imperviousness of these areas commonly results from paving, compacted gravel, waterproof liners, compacted earth, and oiled earth.

2.9. Intermittent stream: A well-defined channel that contains water for only part of the year, typically during spring through early summer, and during heavy precipitation events. For this regulation the stream must have well defined stream banks and a predominantly cobble, gravel, sand or silt stream bottom. Grassy swales without defined stream banks are not included.

2.10. Irreversible Damage: Any damage resulting from construction, excavation, removal of vegetation or other activities within the Buffer that cannot be reasonably repaired, re-established or mitigated because of technical or financial considerations.

2.11. Ordinary High Water Mark: The line that water impression land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line include, when appropriate, but are not limited to deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural vegetative value.

2.12. Perennial Stream: A stream or a reach of a natural stream that, under normal precipitation conditions, flows throughout the year. Streams dewatered during part of the year by irrigation or other withdrawals, but which would flow through the year without said withdrawals, are perennial streams.

2.13. Permanent Structure: Any structure, including residential structures, barns, garages and outbuildings that utilize a durable, solid foundation and are classified as real property. Examples include residences, decks with concrete foundations, masonry walls, and sheds.

2.14. Process of Construction: A residential structure is determined to be in the process of construction if: Actual house construction has begun; or, there is an existing foundation, wastewater treatment system and water system on the effective date of the SPR; or, a valid drain field permit has been secured that specifies the location of the wastewater treatment system and the house, when constructed, is not closer to the stream than the drain field or the appropriate minimum Setback distance.

2.15. Residential Structure: Any structure completed or in the process of construction intended for human occupancy. Mobile homes and modular homes are considered residential structures. Campers and motor homes are not considered residential structures.

2.16. Riparian Area: An area of land adjacent to a stream, river, lake or wetland that contains vegetation that, due to the presence of water, is distinctly different from the vegetation of adjacent upland areas.

2.17. Setback: The area adjacent to a stream or wetland where permanent structures such as homes, garages and other structures with foundations are prohibited (See Figure 1). The buffer zone (see definition) is contained within the setback. The setback distance is defined for each stream class in the section titled Buffer and Setback Requirements.

## STREAMSIDE PROTECTION REGULATION - FINAL PROPOSAL

Revised 10-29-2008

Printed 10/29/2008 11:53 PM

Final Proposal

**2.18. Stream/River:** A stream or river is a body of water with a detectable current, confined within a bed and banks.

**2.19. Structure:** Any permanent or temporary object that is constructed, installed on, or affixed to a parcel of land. This includes buildings of all types, bridges, in-stream structure, storage tanks, wells, fences, swimming pools, towers, antennas, poles, pipelines, transmission lines, smokestacks, and similar objects, but does not include vehicles.

**2.21. Variance:** Use or activity approved by the Ravalli County Board of Adjustments that specifically permits deviation from Buffer and Setback requirements and restrictions included in the SPR

**2.22. Wetland:** An area where the vegetation is primarily sedges, cattails, willows or similar plants, and the soil is saturated during most of the growing season. These wetland areas extend from the edge of the stream to a break in slope where the ground is distinctly drier.

**2.23. 310 Permits, (Montana Natural Streambed and Land Preservation Act):** A permit required by any private, nongovernmental individual or entity that proposes to physically alter a stream on public or private land. The Montana Natural Streambed and Land Preservation Act require obtaining a 310 permit before any stream altering activity is carried out within the ordinary high water marks of a perennial stream. This law is administered by the Board of Supervisors of the conservation district in which the project takes place.

**2.24. 124 Permit:** A permit required by any governmental agency proposing to physically alter any stream on public or private land. The Stream Protection Act requires a permit before any project that alters the bed or banks of a stream in Montana. This law is administered by Montana Fish, Wildlife and Parks.

### 3. BUFFER AND SETBACK REQUIREMENTS

This Section defines the buffer and setback areas to be regulated by the SPR. Streamside buffer and setback area requirements for any stream shall be determined by the Stream Class as defined in this section.

Application for a Boundary Verification Document shall be required for construction of any permanent structure within 100 feet of the setback boundary to ensure that the buffer and setback boundaries have been accurately determined and that said construction and activities will not result in unacceptable, permanent impacts to the buffer and setback areas.

#### 3.1. CLASS 1 STREAM:

The Class 1 Stream shall consist of the main stem of the Bitterroot River extending from the confluence of the West Fork and East Fork downstream to the Missoula County boundary.

The buffer shall consist of the streamside area defined by measuring a lateral distance of 200 feet outward from the ordinary high water mark along all active channels. The setback shall consist of the streamside area defined by either: 1) Measuring a lateral distance of 250 feet outward from the ordinary high water mark along all active channels, or; 2) Measuring a lateral distance of 50 feet from the outer most edge of any associated wetland originating within the buffer, whichever distance is greater (See Table 2).

#### 3.2. CLASS 2 STREAMS:

Class 2 streams shall consist of the entire length of the East and West Forks of the Bitterroot River and the larger tributaries of the Bitterroot River as designated in Table 1 below:



# STREAMSIDE PROTECTION REGULATION - FINAL PROPOSAL

Revised 10-29-2008

Printed 10/29/2008 11:53 PM

Final Proposal

## 3.3. Table 1: BITTERROOT RIVER TRIBUTARIES

Bass Creek	Burnt Fork Creek	Lost Horse Creek	Rye Creek	Sweathouse Creek
Bear Creek (including North & South Channels)	Chaffin Creek	Mill Creek	Sawtooth Creek	Sweeney Creek
Big Creek	Fred Burr Creek	One Horse Creek	Skalkaho Creek	Tin Cup Creek
Blodgett Creek	Kootenai Creek	Roaring Lion Creek	Sleeping Child Creek	

## 3.4. WEST FORK BITTERROOT TRIBUTARIES

Nez Perce Fork	Hughes Creek
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The buffer for all Class 2 streams shall consist of the streamside area defined by measuring a lateral distance of 100 feet outward from the ordinary high water mark along all active channels. The setback shall consist of the streamside area defined by either: 1) Measuring a lateral distance of 150 feet outward from the ordinary high water mark along all active channels, or; 2) Measuring a lateral distance of 50 feet from the outer most edge of any associated wetland originating within the buffer, whichever distance is greater (See Table 2).

## 3.5. CLASS 3 STREAMS:

Class 3 streams shall consist of all perennial streams not defined as a Class 1 or Class 2 streams.

The buffer for all Class 3 streams shall consist of the streamside area defined by measuring a lateral distance of 75 feet outward from the ordinary high water mark along all active channels. The setback shall consist of the streamside area defined by either: 1) Measuring a lateral distance of 100 feet outward from the ordinary high water mark along all active channels, or; 2) Measuring a lateral distance of 50 feet from the outer most edge of any associated wetland originating within the buffer, whichever distance is greater (See Table 2).

## 3.6. CLASS 4 STREAMS:

All intermittent streams shall be classified as Class 4 Streams.

The buffer for all Class 4 streams shall consist of the streamside area defined by measuring a lateral distance of 50 feet outward from the ordinary high water mark along all active channels. The setback shall consist of the streamside area defined by either: 1) Measuring a lateral distance of 75 feet outward from the ordinary high water mark along all active channels, or; 2) Measuring a lateral distance of 50 feet from the outer most edge of any associated wetland originating within the buffer, whichever distance is greater (See Table 2).

## 3.7. Table 2: BUFFER, SETBACK BOUNDARY VERIFICATION WIDTHS:

STREAM CLASS	BUFFER WIDTH	SETBACK WIDTH	BOUNDARY VERIFICATION WIDTH
	The distance measured outward from the ordinary high water mark.	The distance measured outward from the ordinary high water mark. NOTE: The setback width INCLUDES the buffer width.	The distance measured outward from the ordinary high water mark to the area of construction.
Class 1	200 feet	250 feet	350 feet

## STREAMSIDE PROTECTION REGULATION - FINAL PROPOSAL

Revised 10-29-2008

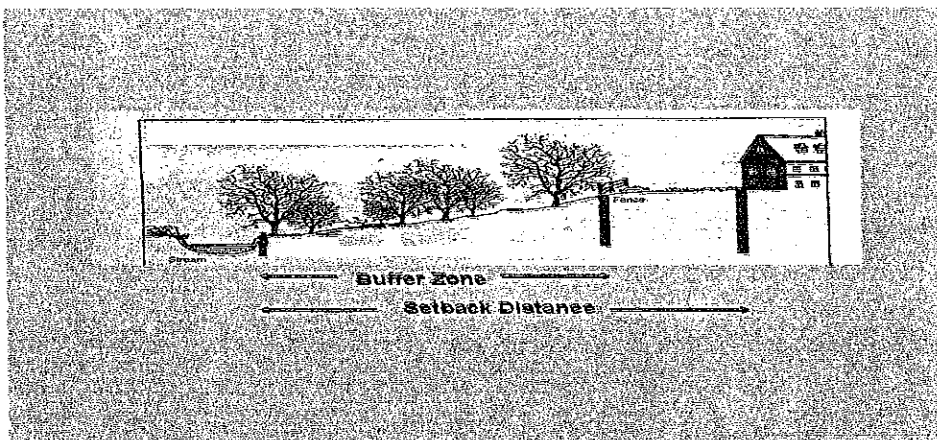
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Final Proposal

Class 2	100 feet	150 feet	250 feet
Class 3	75 feet	100 feet	200 feet
Class 4	50 feet	75 feet	175 feet

See Figure 1 for Pictorial.

### 3.8. FIGURE 1



## 4. ALLOWED STRUCTURES AND USES WITHIN THE BUFFER AND SETBACK

4.1. Existing Structures and Uses: All legal structures and uses, including structures in the process of construction, within the buffer and setback areas existing on the effective date of this Regulation shall be allowed to continue (i.e. they are grandfathered). Grandfathering, as defined herein, shall survive sale or transfer of property ownership.

4.2. Associated Amenities: All lawful, pre-existing amenities, such as lawns, gardens, outbuildings and picnic areas are exempt.

4.3. Agricultural Structures and Uses: All legal agricultural structures and uses and structures and uses directly related to agricultural enterprise, including all agricultural activities intended for personal use or recreation (such as animal husbandry and garden plots), shall be allowed to continue so long as this Regulation is in effect. This does not include new structures with permanent foundations such as garages, residential structures, shops etc.

4.4. Irrigation Structures and Uses: All legal structures and activities required for transport, distribution and use of water for the purpose of irrigating crops and lawns, and maintenance of ponds, including crops, lawns and ponds located within the buffer and setback area shall be allowed to continue.

## 5. ALLOWED NEW STRUCTURES AND USES WITHIN THE BUFFER AND SETBACK

5.1. Construction and Maintenance: Replacement of existing structures: Any existing, legal structure within the setback that is destroyed may be replaced.

5.2. DEQ Approval: The construction of a residential structure and one outbuilding shall be permitted on any existing legally buildable lot, having legal DEQ approval for a septic system, on the effective date

## STREAMSIDE PROTECTION REGULATION - FINAL PROPOSAL

Revised 10-29-2008

Printed 10/29/2008 11:53 PM

Final Proposal

of this regulation. If the buffer and setback distances applicable to the lot under these regulations cannot be met due to substantial topographic or boundary limitations, the structure(s) may be placed closer to the Ordinary High Water mark (OHW) to the minimum extent required; however, in no case shall any structure be placed closer than 100 ft. from the OHW. Accordingly, the buffer distance from the OHW may be reduced for this particular lot to allow it to remain as a buildable lot. However the goal in doing this must be to continue to protect the maximum amount of buffer and setback and yet allow the use of the lot for the building of structure(s). The final location of the structure(s) shall be subject to the review and require the approval of the Department. "Substantial topographic limitation" as used herein shall mean that the construction of a residential structure or accompanying outbuilding could not be accomplished in the available area by ordinary and commonly accepted and used techniques.

5.3. Expansion of Existing Structures: Expansion of an existing or replacement structures shall be allowed so long as the construction does not occur closer to the ordinary high water mark than the original structure. The footprint of the new construction or expansion of an existing structure may be no more than 50% larger, but no more than 1000 square feet larger, than the footprint of the original structure. Expansion of an existing structure shall be allowed one time.

5.4. Repair of Existing Structures: Normal repair and maintenance to all existing and replacement structures and landscaping is allowed. All activities done under a valid 124 permit or 310 permit issued by the Bitterroot Conservation District shall be allowed.

5.5. Subdivisions: Construction in new subdivisions for which designated no build/alteration zones and building envelopes are approved by the Ravalli County Board of County Commissioners prior to the effective date of this Regulation is allowed.

5.6. Fencing: Fencing is permitted. (See Best Management Practices)

5.7. Irrigation and Other Water Uses: All activities undertaken to divert and deliver water under a valid water right, including vegetation control or removal within the ditch or canal easement, shall be allowed.

5.8. Recreational Uses: All recreational activities such as fishing, hunting, hiking, picnicking, temporary camping and similar temporary uses shall be allowed.

5.9. Roads and Stream Crossing: Construction and use of unpaved roads, stream crossings and bridges required to access structures or property not otherwise reasonably accessible shall be allowed.

5.10. Temporary Structures: Recreational vehicles (including motor homes, campers, trailers etc), tents and other temporary structures shall be allowed for no more than a total of 120 days per year.

5.11. Timber Harvest: Timber harvest shall be allowed if carried out in compliance with the Montana Streamside Management Zone Regulation.

5.12. Utilities: Construction of and placement of utilities is allowed within the Buffer as long as the site is restored to native conditions.

5.13. Weed and Pest Control: All measures used to control noxious weeds and other undesirable, non-native vegetation shall be allowed if carried out in accordance with guidelines established by the Ravalli County Weed Management District. Herbicides may be used when applied in strict accordance with the Product Label and in accordance with guidelines of the Weed Management District.

## 6. PROHIBITED NEW USES AND ACTIVITIES WITHIN THE BUFFER AREA

6.1. Construction: All new construction of any type within the Buffer is prohibited except as specifically allowed under Section 5 of this Regulation.

## STREAMSIDE PROTECTION REGULATION - FINAL PROPOSAL

Revised 10-29-2008

Printed 10/29/2008 11:53 PM

Final Proposal

6.2. Waste Storage: Storage of waste and debris within the Buffer is prohibited. Existing material used as rip-rap is exempt and can be maintained but cannot be expanded or extended. (Debris includes abandoned vehicles and equipment, household trash and any other inorganic materials not naturally found within the designated buffer area.

6.3. Impervious structures: Construction of impervious structures such as parking lots, roads and equipment or materials storage areas are prohibited.

6.4. Roads: New roads are prohibited except those associated with permitted stream crossings. All new, lawful roads must be designed and constructed to minimize negative impacts to the buffer zone.

6.5. Removal of Vegetation: Removal of some vegetation reasonably required to protect personal property from the threat of wildfire or to remove a threat to public or personal safety shall be allowed. Thinning or trimming of some vegetation to provide or enhance access to or view of the stream, from the residence, is also allowed. Establishment of domestic lawns is prohibited.

Maintain a diversity of tree and shrub species and sizes that are representative of the pre-thinned stand is required. Leave at least 1/2 of the riparian density in place. When thinning, the density of the riparian vegetation near the stream should be high while the density near the home could be less.

Landowners are encouraged to consult with the local fire protection authority, the local DNRC forestry specialist, and/or the local Montana FWP biologist for advice on these matters. Also ask the department for the document called "Best Management Practices" for more guidance on the removal of vegetation within the Buffer Area.

6.6. Wastewater Treatment Systems: New septic tanks, drain fields, septic lines, garbage pits or other structures designed to collect, treat or discharge sewage or other waste products are prohibited unless performed under a valid Permit issued by Ravalli County or with a document proving legal DEQ approval. Either of these documents must be issued prior to the effective date of the SPR.

### 7. PROHIBITED STRUCTURES AND USES WITHIN THE SETBACK AREA

Construction of new permanent structures within the setback area is prohibited.

### 8. OTHER APPLICABLE REGULATIONS

Wherein the SPR imposes a greater restriction upon uses and activities within the Buffer area than is imposed by other Federal, State or other Ravalli County Statutes/ Regulations the SPR shall apply. In cases where Federal, State or other County Statutes/ Regulations are more restrictive, the more restrictive regulation shall apply

## STREAMSIDE PROTECTION REGULATION - FINAL PROPOSAL

Revised 10-29-2008

Printed 10/29/2008 11:53 PM

Final Proposal

### 9. VARIANCES

9.1. Variances and/or conditional use permits for new uses located within the Buffer and Setback area may be granted by the Board of Adjustment, if in light of the provisions of this Regulation, positive or non applicable findings based on substantial, credible evidence are made for each of the following criteria:

- 9.1.1. Granting the variance will not adversely affect other property.
- 9.1.2. The variance does not violate existing Federal, State, or County statutes / regulations.
- 9.1.3. Enforcement of the SPR would result in unreasonable hardship to the owner as determined by the Board of Adjustments, (financial hardship is not considered an unreasonable hardship).
- 9.1.4. Granting of the variance will not permanently and adversely affect the health, safety, and/or welfare of any residents of Ravalli County.
- 9.1.5. Granting of the variance will not cause excessive negative impacts to water quality, stream stability, fish and wildlife habitat or natural flood flow heights.
- 9.1.6. No illegal actions on the part of the applicant are associated with the variance request.
- 9.1.7. Granting of the variance will be consistent with the general purpose and intent of the SPR.
- 9.1.8. Granting of the variance will not confer on the applicant any special privilege that is denied by the SPR to other residents or property owners in the same area.

9.2. The Board of Adjustment, when considering the approval of a variance and/or conditional use permit, should consider any mitigating adjustments that the applicant may offer. Some types of mitigation that would be considered are, but not limited to;

- 9.2.1. Treatment to prevent erosion or slope instabilities.
- 9.2.2. Installation and maintenance of drainage and retention facilities.
- 9.2.3. Seeding or planting of native vegetation.
- 9.2.4. Creating a new riparian or wetland area to replace the area affected by the variance.
- 9.2.5. Other measures to achieve riparian and/or wetland protection.
- 9.2.6. Installation of pervious driveways and other measures to minimize creation of impervious surfaces.
- 9.2.7. Positioning of lawns and grass as far as possible from riparian areas.

9.3. Property owners or their designated representatives shall make the application, using the procedures and forms provided by The Department, through The Department to the Board of Adjustments. The Department's policies and procedures shall determine whether a variance application is complete.

9.4. Upon receipt of the completed application from The Department, the Board of Adjustments shall schedule a public hearing to be held within 45 days.

### 10. SPR ZONING BOARD OF ADJUSTMENTS

- 10.1. The Ravalli County Board of County Commissioners shall provide for a Board of Adjustments, which will be responsible for review of Applications for Variance submitted in accordance with the Section of the SPR titled "Variances".
- 10.2. The Board of Adjustments shall consist of at least 5 members, to be appointed to 2 year terms by the County Commissioners.
- 10.3. The Board of Adjustments for streamside protection may be a unique board seated to review variance requests, or may be combined with review of other County zoning regulations.
- 10.4. Any meeting of the Board of Adjustments shall be open to the public and duly noticed as a public meeting. At meetings during which a variance request is to be considered, a written letter describing the project and the details of the meeting must be mailed to any property owner within 300 feet of the subject property boundary, giving at least two weeks notice of the meeting.

## STREAMSIDE PROTECTION REGULATION - FINAL PROPOSAL

Revised 10-29-2008

Printed 10/29/2008 11:53 PM

Final Proposal

- 10.5. ~~The Board of Adjustments decision on a variance may be appealed to the full Board of County Commissioners.~~
- 10.6. The Board of Adjustments shall require, with any variance granted, that the applicant provide as-built certification from a Professional Engineer or other qualified licensed professional that the project was completed in accordance with approved conditions.
- 10.7. Any member of the Board of Adjustments, or authorized agent, may inspect the site of a proposed project either to understand a proposed project or to determine that an on-going or completed project has met approved conditions. By making an application for approval or variance, the owner or occupant of the property agrees to allow access to the property at reasonable times, after due notice, for the purpose of such inspections.
- 10.8. Where a provision of the SPR is found to be in conflict with a provision of any other County regulation, the provision that, in the judgment of the Zoning Board of Adjustments, establishes the higher or more stringent standard for the promotion and protection of the health safety and welfare of the people shall prevail.
- 10.9. Where a provision of the SPR is found to be vague or open to excessive interpretation, the Board of Adjustments may issue a statement that clarifies how a provision will be interpreted. The Board of Adjustments may also recommend amendment or revision of the SPR by the Board of County Commissioners as deemed necessary.

Comment [bch3]: This item is flagged for review by the Legal and Planning departments.

### 11. ENFORCEMENT

- 11.1. This regulation will be administered, managed and supervised by the staff and other authorized agents of the Department. Penalties for violation of these regulations or violation of any approved variance to the SPR shall be subject to criminal prosecution in accordance with Section ~~22-2-2~~ of MCA.
- 11.2. The set of base line 'previously existing conditions' as described in the SPR will be decided by comparison with dated aerial photographs, or similar detailed pictures of on site conditions, taken at a given site. Detailed site maps prepared by a Professional Licensed Surveyor or Professional Engineer may be used in lieu of, or in addition to, aerial photos.
- 11.3. Any permit or approval granted under the SPR shall be void if based upon misrepresentation of the facts. Failure to disclose any relevant material or facts to obtain approval shall be considered misrepresentation.

Comment [bch4]: Flagged for review by Planning and Legal departments.

### 12. VIOLATIONS AND PENALTIES

Any person, firm or corporation that violates the provisions of this Regulation shall be guilty of a misdemeanor and punishable by a fine of up to \$500/day and /or a jail term of not greater than six months. Each day that the Prohibited Uses and Activities occur constitutes a separate violation. Criminal responsibilities of firms or corporations shall be governed by relevant provisions of the MCA.

*This is the End of this Document.*

## Minority Report

I have been actively involved in the Streamside Setback Committee (SSC) since the inception in June of 2006. While diligently working with the rest of the SSC, I have several reservations about the Ravalli County Streamside Protection Regulation Final Draft Proposal. These reservations have been made by me, and others, during the last 15 months. Many of these problems were not given adequate consideration by many members of the SSC, and when the public brought up concerns they were viewed as the radical minority.

1. **Boundary Verification Document:** A rather late addition to the Draft Proposal was the "Compliance Permit." Because of other concerns this has been renamed to be the "Administration" section of the document or paragraph 1.7 and termed "Boundary Verification Document." This section requires that the Planning Department must review any proposed construction within 100' of the setback and maintain a map that shows the migration of the streams so that a once approved site does not become unapproved. Given the Planning Departments current workload, this would most certainly require additional manpower to accomplish, thus requiring an additional fee that would artificially inflate the current cost of housing. This provision would also put an additional burden on those landowners that are trying to stay out of the setback. To avoid this fee, the landowner would have an additional 100' added to whatever setback is currently in effect.

2. **Setback and Buffer Distance:** The distances for the setbacks and buffers are identified in table 2 of the Draft Proposal. These distances are very cumbersome to the landowner. I feel that the distances should be specific to the topography of the land that they are regulating. If there is a canyon or bluff, I feel that these distances are too great; if the land is flatter, the distance still may not be appropriate. The culmination of the scientific data for these distances has, as of the date of this Draft Proposal, not been completed. I feel that the Scientific Subcommittee of the SSC should have given a packet of peer reviewed data, as described in Resolution 3000, which specifically identifies these distances as appropriate and recommended. In doing my own reading and limited research there are varying opinions as to what distance is appropriate in these circumstances. However, most of the papers that I have read emphasize the importance of taking the local characteristics of the land in to account.

3. **Agriculture:** In paragraph 4.3 of the Draft Proposal, the SSC attempted to exempt all agricultural activities with the exception of anything with permanent foundations. I am in complete support of anything associated with agriculture being exempt from this document. I do not believe that there are an overwhelming number of barns with permanent foundations to be built.

4. **Expansion of Existing Structures:** Paragraph 5.3 of the Draft Proposal gives authorization for expansion of structures within the setback area for up to 50% of the original footprint or 1000 feet whichever is less. I feel this is an extreme requirement on a grandfathered structure. The section goes on to say that the expansion is only allowed

once. However, it does not provide a way for the county to monitor this, as the Boundary Verification Document only applies to new structures. The expansion section does not expressly identify improving or the expansion of existing roads. If the same criteria were applied to roads as applied to structures, it would be nearly impossible to pave a dirt road that was located in the setback.

5. **State Regulation:** Many citizens identified the need for a Ravalli County streamside protection document with the idea that it would prevent the state from imposing greater "one size fits all" regulations. Paragraph 8 states that whichever regulation is more restrictive, shall apply. This negates the entire reason for this document in the minds of some of the initially strongest proponents.

I support the idea of a Streamside Protection Regulation and would like to see the county come up with a document that is not only well thought out, but also scientific, appropriate for the topography of each parcel, and manageable; I do not believe that this is that document. If these basic goals cannot be achieved, then it is not the right time to implement regulations of this type in Ravalli County.

I encourage you to contact me with any concerns or questions.

Respectfully Submitted,



Travis A Martinez  
Bitterroot Building Industry Association Representative



**STREAM PROTECTION REGULATION (DRAFT)**  
**SUMMARY OF WRITTEN PUBLIC COMMENTS**

The following is a summary by category of written public comments submitted to the Ravalli County Planning Department, the Streamside Setback Committee, and the Ravalli County Board of Commissioners, from the inception of the Committee through October 9, 2008. Comments specifically addressing the draft Interim Regulation published in the fall of 2007 were omitted unless they pertained to issues or elements carried forward to the draft final regulation as well. Since the draft final regulation has and continues to evolve and change, often in response to citizen input, comments and suggestions may already have been incorporated into the document. A brief explanation of each category and action, if any, by the committee are included. The categories are listed in no particular order of priority or significance.

**REASONS FOR STREAMSIDE PROTECTION REGULATION**

- Protection of water quality
- Protection of streams and their natural functions
- Protection of fish and habitat
- Protection of natural resources
- Protection of wildlife habitat
- Increased property values or no negative impact on property values.
- Enhanced privacy of streamside properties.
- Protection of the rights and interests of some streamside owners from the adverse actions of others
- Protection of some streamside owners from having to mitigate and fix the damage done by the failure to follow proper practices by others.

**SUPPORT FOR SPECIFIC ELEMENTS OF DRAFT SPR**

- Appropriate setback and buffer distances as written
- Benefit and necessity of Compliance Permit requirement
- Variance procedure with mitigation possibility

**CONCERNS SUGGESTING MODIFICATION OF THE DRAFT REGULATION**

(Committee Action or Response in parentheses)

- Grandfathering – ie, the continued allowance of existing and historical uses. (Much work and revision has been done by the committee to assure this protection.)
- Grandfathering “in perpetuity”. (The committee has suggested language for the final draft that may accomplish this, pending county legal review.)
- Non-conformity – the classification as “non-conforming” of those grandfathered existing structures and uses which would not be permitted if initiated after the regulation were to become effective. (All reference to “non-conforming” has been stricken from the final draft.)
- Adverse impact on agriculture. (Legitimate agricultural uses are exempt in the current draft.)
- Setback and buffer distances are excessive.
- Class IV Streams (non-perennial) – should be omitted or definition refined. These are difficult to

define, too broad, and thus create undue hardship and administration. (The committee has attempted to adequately define and differentiate what is intended.)

- Wetlands should be omitted. (The draft regulation limits its protection of wetlands to only those originating within the buffer.)
- Compliance Permit – overly stringent, burdensome, and costly. (The requirement for a Compliance Permit has been eliminated).
- Unbuildable lots – those which due to geometry or terrain would have no place for a structure once the setback distance is applied. (The draft regulation contains a clause allowing a smaller setback distance in the aforementioned situations for those lots with a valid DEQ septic approval. The variance procedure offers further recourse.)
- Removal of vegetation prohibition. (The draft regulation provides guidance and lists numerous exceptions to this prohibition, including reasons of access, views, and health and safety (eg fire hazard).)
- Abandoned Structures clause – should be removed. (The committee removed this clause.)
- Temporary Structures – remove time limit. (The committee extended the time limit from 90 days to 120 days.)
- Setback *and* buffer – overly burdensome.
- The regulation should include all lands, not just private.
- The regulation is too vague in places. (The committee has consistently strived to address this.)

#### REASONS AGAINST STREAMSIDE PROTECTION REGULATION

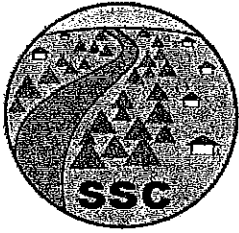
- Unacceptable infringement on private property rights
- Constitutes a “taking”
- Devaluation of streamside property
- Undesirability of regulation in general
- Sufficiency of existing agencies and regulations
- Increased financial burden to county
- Difficulty of enforcement
- “Best Practices” document preferable to regulation
- There is no problem and thus no need for regulation
- Excessive loss of use of property
- Loss of freedoms

#### COMPOSITION OF SETBACK COMMITTEE

- Committee should be composed of at least 50% streamside owners. (The Committee is composed of 53% streamside owners – 9 of 17 voting members.)

#### CALLS FOR DISSOLUTION OF SETBACK COMMITTEE

- Dissolve the entire committee and discard all work to date – the process has insufficiently been transparent and open to public review and comment.



Ravalli County  
Streamside Setback Committee (SSC)

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**From:** Ben Hillicoss

**To:** Ravalli County Streamside Setback Committee (SSC)

**Date:** October 31, 2008

**Subject:** My comments on Proposed Final Draft of the Streamside Protection Regulation, including my Supporting Statement of the Majority position follows.

I am pleased to announce **my full support of the final draft** of the proposed Streamside Protection Regulations. Working on this project has been a real learning experience and very rewarding for me personally. I found the members of the SSC, very competent, knowledgeable and highly dedicated professionals intent on producing the best possible, practical, science based and workable regulations that fit the unique character of the diverse citizens of Ravalli County. Looking back, it is hard to believe how many hours of work and meetings we put in this effort and how positive and dedicated to this task everyone was most of the time. Many times we had two and sometimes three working sessions or meetings in the same week.

I thank the Planning Board for selecting me as their representative on this important effort. I also wish to thank the members of the SSC for selecting and entrusting me with three key jobs on the committee. They were Vice Chair of the SSC, and as the Chairperson of the Planning Subcommittee and the Regulations Subcommittee.

The final document is the result of much research, public discussion, and compromise. The final draft produced by the regulations subcommittee had complete consensus within the members of this subcommittee on every section of the document.

There is one additional item that I wish to comment on. That is the single issue that kept us from having complete consensus by the total SSC on the final draft. That is the issue of site specific setbacks for every section of every stream as opposed to having specific setbacks for full length of each individual stream based on the size of the stream. This decision was discussed and debated in many of our meetings. Everyone but one member of the SSC agreed to and supported the selected approach. The site specific approach was supported by a vocal subset of the Real Estate community in the previous attempt to develop a set of Setback regulations and was the major reason that effort failed in Ravalli County. I view the attempt to get our committee to again adopt this approach as a blatant attempt to insert a **poison pill** into these proposed regulations.

The reasons the SSC did not accept this approach are many. The major ones are 1) there is no existing, sound generally accepted, science based support for this approach, 2) this approach would be much, much more expensive and resource intensive to develop, implement, administer and use, 3) this approach would be highly controversial to the public, and finally this approach would be much, much more likely to be rejected by the voting public, because large blocks of voters would be opposed to Setback regulations based on this approach. Support of this approach would very likely result in the general rejection by the citizens of Ravalli County of the total Setback regulations document. I believe this is the true goal of the people pushing for this approach.

Respectfully submitted,

Ben Hillicoss  
Vice Chairman, Streamside Setback Committee

Attachment 4

**From:** Patti Eldredge <alombard@montana.com>  
**To:** remlcvs1@aol.com  
**Subject:** Re: Revised Final Draft Proposal of SP Regulations from 10.28.08 meeting  
**Date:** Thu, 30 Oct 2008 5:07 pm

I strongly support the draft proposal. Howard Eldredge

----- Original Message -----

**From:** remlcvs1@aol.com  
**To:** bigskyoutdoornews@yahoo.com ; bperkins@ravallicounty.mt.gov ; cclancy@fs.fed.us ; yathabhuta@in-tch.com ; kielian@hotmail.com ; alombard@montana.com ; jay.t.evans@gskbio.com ; grandstaff@montana.com ; linda5117@msn.com ; lhendrix@ravallicounty.mt.gov ; irachar@bitterroot.net ; john@brengineer.myrf.net ; jrokosch@ravallicounty.mt.gov ; alcyon@povn.com ; travis@greatermontanare.com ; EOLWELL@aol.com ; tparker@geumconsulting.com ; pernichele@msn.com ; brwaterforum@bitterroot.net ; dorene@montanaoutback.com  
**Sent:** Wednesday, October 29, 2008 2:01 PM  
**Subject:** Fwd: Revised Final Draft Proposal of SP Regulations from 10.28.08 meeting

Hi All,

One additional point to Ben's E-mail. Of those who were not at the voting last night, you may and are encouraged to do so, provide a statement in support of the majority vote to approve the Final Draft Proposal of the SPR.

It is important that not only are descent minority position statements made but also majority position statements made. Even if you are not a voting member of the SSC, your position is very important and it can be and should be made available to the BCC and the County reviewing staff.

This will enable the BCC to get the full assessment of the SCC members positions and enable them to get a positive understanding of the whole committee's position.

Again, your statements must be available prior to our forwarding the Approved Final Draft Proposal to the BCC on the 31st of October. Note, this opportunity is nothing more than a statement of support or non-support it is not to be used for editing or suggesting revisions to the approved document.

A concise statement of "yes, I support" or no, I do not support the approval will suffice. But if you wish to concisely state specifically why you have one position or the other, that is appropriate.

Please copy me on any statements you make.

Also, it is appropriate for those who voted last night to provide a concise statement of why you support the document.

Best Regards, Clay

-----Original Message-----

**From:** Ben Hillicoss <BenHillicoss@Huntor.myrf.net>  
**To:** Ben Hillicoss <BenHillicoss@Huntor.myrf.net>; 'Dethlefsen, Clay' <remlcvs1@aol.com>; Beth Perkins <bperkins@ravallicounty.mt.gov>  
**Cc:** 'Clancy, Chris' <cclancy@fs.fed.us>; 'DeHann, Roger' <yathabhuta@in-tch.com>; 'DeWitt, Kielian' <kielian@hotmail.com>; 'Eldrege, Howard' <alombard@montana.com>; 'Evans, Jay' <jay.t.evans@gskbio.com>; Grandstaff, Carlotta <grandstaff@montana.com>; 'Habeck, Linda' <linda5117@msn.com>; 'Hendrix, Laura' <lhendrix@ravallicounty.mt.gov>; 'Holt, Ira' <irachar@bitterroot.net>; 'Horat, John' <john@brengineer.myrf.net>; James Rokosch <jrokosch@ravallicounty.mt.gov>; 'Marshall, George' <alcyon@povn.com>; 'Martinez, Travis' <travis@greatermontanare.com>; 'Olwell, Eddie' <EOLWELL@aol.com>; 'Parker, Tom' <tparker@geumconsulting.com>; 'Pernichele, Al' <pernichele@msn.com>; 'Perry, Vanessa' <vperry@ravallicounty.mt.gov>; 'Riley, Laurie' <brwaterforum@bitterroot.net>; 'Sain, Dorene' <dorene@montanaoutback.com>

From: AL PERNICHELE:<pernichele@msn.com>  
To: Clay <remicvs1@aol.com>  
Subject: RE: Revised Final Draft Proposal of SP Regulations from 10.28.08 meeting  
Date: Thu, 30 Oct 2008 9:42 pm

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I strongly support the Draft Streamside Protection Regulation as approved by the majority of the Streamside Setback Committee on October 28, 2008. I believe the provisions of this regulation strike a near optimum compromise between the need to protect our streams and the need to protect the property rights of streamside landowners. The contents of this regulation reflect the ideas and values of the public as expressed in the many public comments received by the Streamside Setback Committee as well as solid scientific analysis.

Al Pernichele

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To: bigskyoutdoornews@yahoo.com; bperkins@ravallicounty.mt.gov; cclancy@fs.fed.us; yathabhuta@in-tch.com; kielian@hotmail.com; alombard@montana.com; jay.t.evans@gskbio.com; grandstaff@montana.com; linda5117@msn.com; lhendrix@ravallicounty.mt.gov; irachar@bitterroot.net; john@brengineer.myrf.net; jrokosch@ravallicounty.mt.gov; alcyon@povn.com; travis@greatermontanare.com; EOLWELL@aol.com; tparker@geumconsulting.com; pernichele@msn.com; brwaterforum@bitterroot.net; dorene@montanaoutback.com  
Subject: Fwd: Revised Final Draft Proposal of SP Regulations from 10.28.08 meeting  
Date: Wed, 29 Oct 2008 16:01:54 -0400  
From: remicvs1@aol.com

Hi All,

One additional point to Ben's E-mail. Of those who were not at the voting last night, you may and are encouraged to do so, provide a statement in support of the majority vote to approve the Final Draft Proposal of the SPR.

It is important that not only are dissent minority position statements made but also majority position statements made. Even if you are not a voting member of the SSC, your position is very important and it can be and should be made available to the BCC and the County reviewing staff.

This will enable the BCC to get the full assessment of the SCC members positions and enable them to get a positive understanding of the whole committee's position.

Again, your statements must be available prior to our forwarding the Approved Final Draft Proposal to the BCC on the 31st of October. Note, this opportunity is nothing more than a statement of support or non-support it is not to be used for editing or suggesting revisions to the approved document.

A concise statement of "yes, I support" or no, I do not support the approval will suffice. But if you wish to concisely state specifically why you have one position or the other, that is appropriate.

Please copy me on any statements you make.

Also, it is appropriate for those who voted last night to provide a concise statement of why you support the document.

Best Regards, Clay

-----Original Message-----

From: Ben Hillicoss <BenHillicoss@Huntor.myrf.net>  
To: Ben Hillicoss <BenHillicoss@Huntor.myrf.net>; 'Dethlefsen, Clay' <remicvs1@aol.com>; Beth Perkins <bperkins@ravallicounty.mt.gov>

<http://webmail.aol.com/39598/aol/en-us/Mail/PrintMessage.aspx>

10/31/2008

Attachment 6

From: Chris Clancy <cclancy@fs.fed.us>

To: remlcvs1@aol.com

Cc: alcyon@povn.com; alombard@montana.com; bigskyoutdoornews@yahoo.com; bperkins@ravallicounty.mt.gov; brwaterforum@bitterroot.net; dorene@montanaoutback.com; EOLWELL@aol.com; grandstaff@montana.com; irachar@bitterroot.net; jay.t.evans@gskbio.com; john@brengineer.myrf.net; jrokosch@ravallicounty.mt.gov; kielian@hotmail.com; lhendrix@ravallicounty.mt.gov; linda5117@msn.com; pernichele@msn.com; tparker@geumconsulting.com; travis@greatermontanare.com; yathabhuta@in-tch.com

Subject: Re: Fwd: Revised Final Draft Proposal of SP Regulations from 10.28.08 meeting

Date: Thu, 30 Oct 2008 12:10 pm

I support the Final Draft Proposal of the Ravalli County Streamside Protection Regulation for the following reasons:

1. If implemented fairly and with common sense it will strike a fair balance between the rights and desires of private property owners to enjoy and use their land, with the equally valid right of the public to expect protection of their water quality, fish and wildlife resources.

2. The document makes an effort to find a middle ground between two concepts:

1. One Size fits all regulations that are comparatively easy to administer, but scientifically simplistic; and

2. Site specific regulations that are more complicated and expensive to administer but scientifically more credible.

This balance is achieved by using locally useful, site specific data such as:

Ravalli County floodplain mapping,,

Stream specific National Wetland Inventory 2007 riparian layer,

Stream specific fishery values

Stream specific relative drainage areas

These data sources could be used to derive more stream classes and even varying buffer widths on individual streams. However, we felt that keeping the regulation simple and more easily enforceable required us to minimize the number of stream classes.

The more site specific data was also blended with literature review of buffer width recommendations from a large variety of publications. This literature, when summarized, allowed us to understand why various buffer widths are applied to streams for various resources. It allowed us to understand the general concepts of buffer widths that could be blended with more site specific information. As more local information becomes available we can trend toward more site specific buffer widths.

3. The Stream Setback Committee itself

This committee began work in the summer of 2007. I am sure none of us had a very good idea as to how long the effort would take or how much work and time would be invested. I have been very impressed with the of willingness individuals on this committee to donate a considerable amount of time and endure significant stress while working toward the final regulation. Committee members themselves were respectful of each others opinions and behaved in a very professional manner. The group educated themselves through invited speakers and dialogue with local people. As in any diverse group, some significant differences of opinion emerged. Particularly for those in the minority on these matters, I am grateful for their respectful dialogue and good humor. While we may not have unanimous agreement on the final product, the respectful manner in which it was developed was welcome in a valley where this type of discussion is all too rare. Due to the open and honest effort by this committee, the document is a credible attempt to balance many issues along streams.

From: BRWF <brwaterforum@bitterroot.net>

To: remlcvs1@aol.com

Cc: 'Clancy, Chris ' <cclancy@fs.fed.us>; 'DeHann, Roger ' <yathabhuta@in-tch.com>; 'DeWitt, Kielian ' <kielian@hotmail.com>; 'Eldrege, Howard ' <alombard@montana.com>; 'Evans, Jay ' <jay.t.evans@gskbio.com>; Grandstaff, Carlotta <grandstaff@montana.com>; 'Habeck, Linda ' <linda5117@msn.com>; 'Hendrix, Laura ' <lhendrix@ravallicounty.mt.gov>; 'Hillicoss, Ben ' <benhillicoss@hunter.myrf.net>; 'Holt, Ira ' <irachar@bitterroot.net>; 'Horat, John ' <john@brengeer.myrf.net>; James Rokosch <jrokosch@ravallicounty.mt.gov>; 'Marshall, George ' <alcyon@povn.com>; 'Martinez, Travis ' <travis@gretermontanare.com>; 'Olwell, Eddie ' <EOLWELL@aol.com>; 'Parker, Tom ' <tparker@geumconsulting.com>; 'Pernichele, Al ' <pernichele@msn.com>; 'Perry, Vanessa ' <vperry@ravallicounty.mt.gov>; 'Riley, Laurie ' <brwaterforum@bitterroot.net>; 'Sain, Dorene ' <dorene@montanaoutback.com>

Subject: Laurie Riley's Statement of Acceptance of the DRAFT SPR

Date: Wed, 29 Oct 2008 3:42 pm

Clay and SSC:

Please accept my deep and sincere apology for being absent at last night's SSC meeting. I was on the agenda for presenting at the Ravalli Resource Advisory Committee (RAC) meeting and could not change my plans.

I congratulate the SSC for producing a quality DRAFT Streamside Protection Regulation. We have been at this task since June of last year and I wish I had been able to vote with the eleven of you supporting the culmination of our collective efforts. It is unfortunate that we were unable to reach a consensus, but I think having only 1 dissenting member qualifies as a successful effort.

**I fully and wholeheartedly support the DRAFT Streamside Protection Regulation accepted at last night's SSC meeting.**

I look forward to continued efforts on public outreach with additional members of the Committee, who I now consider friends.

Laurie Riley, Executive Director  
Bitter Root Water Forum  
PO Box 1247, Hamilton, MT 59840  
406-375-2272 [brwaterforum@bitterroot.net](mailto:brwaterforum@bitterroot.net)

From: remlcvs1@aol.com [mailto:remlcvs1@aol.com]

Sent: Wednesday, October 29, 2008 2:02 PM

To: bigskyoutdoornews@yahoo.com; bperkins@ravallicounty.mt.gov; cclancy@fs.fed.us; yathabhuta@in-tch.com; kielian@hotmail.com; alombard@montana.com; jay.t.evans@gskbio.com; grandstaff@montana.com; linda5117@msn.com; lhendrix@ravallicounty.mt.gov; irachar@bitterroot.net; john@brengeer.myrf.net; jrokosch@ravallicounty.mt.gov; alcyon@povn.com; travis@gretermontanare.com; EOLWELL@aol.com; tparker@geumconsulting.com; pernichele@msn.com; brwaterforum@bitterroot.net; dorene@montanaoutback.com

Subject: Fwd: Revised Final Draft Proposal of SP Regulations from 10.28.08 meeting

Hi All,

One additional point to Ben's E-mail. Of those who were not at the voting last night, you may and are encouraged to do so, provide a statement in support of the majority vote to approve the Final Draft Proposal of the SPR.

It is important that not only are dissent minority position statements made but also majority position statements made. Even if you are not a voting member of the SSC, your position is very important and

<http://webmail.aol.com/39598/aol/en-us/Mail/PrintMessage.aspx>

10/30/2008

Attachment 7

**Beth Perkins**


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**From:** D. Kielian DeWitt [kielian@hotmail.com]  
**Sent:** Sunday, November 02, 2008 8:56 AM  
**To:** Ben Hillicoss; 'Dethlefsen, Clay'; Beth Perkins  
**Cc:** 'Clancy, Chris'; 'DeHann, Roger'; 'Eldrege, Howard'; 'Evans, Jay'; 'Grandstaff, Carlotta'; 'Habeck, Linda'; 'Laura Hendrix'; 'Holt, Ira'; 'Horat, John'; 'James Rokosch'; 'Marshall, George'; 'Martinez, Travis'; 'Olwell, Eddie'; 'Parker, Tom'; 'Pernichele, Al'; 'Vanessa Morrell'; 'Riley, Laurie'; 'Sain, Dorene'  
**Subject:** RE: Revised Final Draft Proposal of SP Regulaions from 10.28.08 meeting

I recently returned from an out of state trip and have just reviewed the transmittal letter as well as the final draft regulation.

Although I realize the final draft document and voting tally have already been submitted to the BBC, I would like the record to reflect that **I fully support the final draft Streamside Setback Regulation.**

I look forward to seeing you all at the November 18 meeting.

Kielian DeWitt

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From: BenHillicoss@Huntor.myrf.net  
To: BenHillicoss@Huntor.myrf.net; remlcvs1@aol.com; bperkins@ravallicounty.mt.gov  
CC: cclancy@fs.fed.us; yathabhuta@in-tch.com; kielian@hotmail.com; alombard@montana.com; jay.t.evans@gskbio.com; grandstaff@montana.com; linda5117@msn.com; lhendrix@ravallicounty.mt.gov; irachar@bitterroot.net; john@brengineer.myrf.net; jrokosch@ravallicounty.mt.gov; alcyon@povn.com; travis@greatermontanare.com; EOLWELL@aol.com; tparker@geumconsulting.com; pernichele@msn.com; vperry@ravallicounty.mt.gov; brwaterforum@bitterroot.net; dorene@montanaoutback.com  
Subject: Revised Final Draft Proposal of SP Regulaions from 10.28.08 meeting  
Date: Wed, 29 Oct 2008 13:33:25 -0600

Hello All,

Attached, please find the Final Proposed Draft of the SSC Regulation document. This is the version that is intended to reflect exactly what we approved last night as our Final draft to be forwarded to the BCC et. al. Please look this over and notify me ASAP if you see any errors.

For those of you who were not at last nights meeting we voted 11 to 1 to approve this draft. Travis will be submitting a Minority report by Friday too be submitted with our Transmittal letter (see email from George this AM) and this document. I was asked by the SSC to send out this document today with this email today and tell the members of the SSC who were not there for the vote last night that if they wish to submit a minority report it must be completed and emailed to the SSC before this Friday (Halloween). It does not have to be scary!

Thanks  
Ben

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